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Speeches

2008 | 2007 | 2006 | 2005 | 2004 | 2003

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Statement by Commissioner David Langtry at the Commonwealth Conference for National Human Rights Institutions - London, England - February 26 to 28, 2007.

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Mandate

The mandate and role of the Canadian Human Rights Commission (CHRC) is to redress discrimination against individuals and also to help correct persistent patterns of inequality, discourage discrimination before it occurs, inform the public about it and identify emerging human rights issues.

Our enabling legislation also gives us a broad mandate to foster public understanding of human rights, carry out research studies, review legislation and work with other institutions to advance human rights.

The scope of our mandate covers Canadians who work for, or receive services from, the federal government and from federally-regulated industries, such as banks and the communications and transportation sectors.

There are 11 prohibited grounds of discrimination enumerated in the *Canadian Human Rights Act* (*Act*), being: race; national or ethnic origin; colour; religion; age; sex; sexual orientation; marital status; family status; disability; and pardoned conviction.

The Commission is also responsible for the monitoring and enforcement of obligations imposed on employers under the *Employment Equity Act* (*EEA*). The purpose of the *EEA* is to achieve equality in the workplace and eliminating disadvantages experienced by women, aboriginal peoples, persons with disabilities and members of visible minorities.

The Need for Change

Traditionally, under the *Canadian Human Rights Act*, the model for resolving complaints was heavily weighted toward investigation and litigation. Over the years, the number of complaints grew in size and complexity, as systemic discrimination issues, pay equity complaints and limited resources contributed to a growing backlog.

As a result, five years ago, a large proportion of complaints were over two years old, and the investigation and litigation process consumed too much time and resources.

Of course, no one was happy with this – disputing parties were disgruntled, staff morale was very low, Canada's Auditor General wrote a report that noted lengthy delays in complaint processing and cost overruns, and members of Parliament and the Senate were calling the Commission to account.

You know the adage – "Justice delayed is justice denied".

The chronic backlog hindered the ability of the CHRC to carry out other areas of its mandate. The Commission had to change, had to address and resolve the problems it faced, and had to restore its credibility to survive...and thrive.

The Transformation Process

With the support and commitment of staff, we developed an agenda for change centred on restructuring our complaints process and strengthening our management infrastructure.

Case Management

Alternative Dispute Resolution (ADR) became the heart of our complaint resolution process, and in particular, the use of mediation to resolve complaints early and in a less-adversarial way. Successful mediation, of course, saves considerable time, expense, and much emotional wear-and-tear on the parties.

Even before a complaint is filed, the parties are encouraged to participate in mediation, and we make it available at any and every stage of the complaint process.

This has been very successful and I believe the Commission is having a huge impact through this approach.

In addition to *voluntary* mediation, the Commission can refer complaints for *mandatory* conciliation at any time.

To assist us in the development of our Alternative Dispute Resolution processes, we established an Advisory Council of former judges of Courts of Appeal and the Supreme Court of Canada to advise us on how to use ADR as effectively as possible in the context of human rights and the public interest.

A New Litigation Strategy

At the same time as we were improving our case management system, we developed a new litigation strategy. This new strategy confirmed that, in all litigation matters, whether before the Tribunal or in appellate courts, the role of the CHRC is to represent the public interest and not the interests of the complainant or respondent. To play this role effectively and in a coherent manner, we developed criteria for defining what constitutes the public interest.

Historically, we participated fully in all hearings before the Tribunal. This practice consumed a significant amount of our resources and drew criticism from some who felt that the Commission was too closely aligned with the interests of complainants.

Today, we determine on a case-by-case basis the scope and nature of our participation after assessing a number of factors, including whether the case raises broad policy issues, relates to major policy concerns, or raises new points of law. For example, we currently participate in every case dealing with hate on the Internet, given the growing use and reach of the Internet to spread hatred and intolerance.

As a result of the work of Commission counsel, every hate message complaint to date has been upheld by the Canadian Human Rights Tribunal. In all cases, the Tribunal ordered that the respondent cease the communication of hate on the Internet. Such orders are binding and may be enforced before the Federal Court of Canada. In one case, the Commission obtained a 3-month jail sentence against a respondent who had continued to post hate on the Internet despite a Federal Court injunction prohibiting him from doing so.

The Impact of Transformation

As a result of the Commission's new business model, the backlog of cases has been eliminated. Compared to 2002, the average age of complaints has dropped from 25 months to 9.5 months, only 5% of complaints are over two years old compared to 27%, and the number of cases presented to Commissioners for decision rose by 77 per cent.

This complete re-engineering was done without extra resources. Indeed, the new business model, including the new litigation strategy, freed up resources – both human and financial – to allow us to further focus on cases early in the complaint process, provide full legal services to all areas of the Commission's activity, and help shape new initiatives such as creating a Discrimination Prevention Branch to assist employers in fulfilling their responsibilities under both the *Canadian Human Rights Act* and the *Employment Equity Act*.

Because we believe that increased knowledge leads to greater understanding and respect for human rights, we also created a Knowledge Centre, to develop policies, monitor human rights trends, conduct research, look into systemic issues and propose actions that will have an impact on the overall human rights system. Much of our work is shared with employers, service providers and the public, in support of human rights practices in Canada. It is also made available more broadly through access to the Commission's Internet site.

With our focus on knowledge development, we have been able to advance human rights issues by preparing influential reports.

For example, in 2005 the Commission issued a report recommending the repeal of a section of the *Canadian Human Rights Act* that denies First Nations people living on reserve full access to the human rights complaint process.

The Commission has long argued that the repeal of this section is a question of fundamental rights, and that First Nations people, like all other residents of Canada, are entitled to protection from discrimination.

This contributed to the tabling of a Bill before Parliament in December, to repeal this section from our *Act*. We are hopeful that a strengthened version of this Bill will become law this year. The Commission will have an active role to play with First Nations in the implementation of this initiative.

The Future

So what does the future hold for the Commission?

Two of the key areas of work in the next three years will be prevention and outreach.

Prevention

To maintain progress in the dispute resolution area, and most importantly, to achieve gains in human rights and representation of designated groups, we will work more intensively with employers on prevention measures.

Through our Discrimination Prevention Branch, we have developed strong lines of communication with major employers with the result that twelve of them, including the Canadian Forces and the National Bank of Canada, have signed memoranda of understanding with us.

Under these memoranda, we work with the employers' management teams on major areas of concern and develop strategies to protect human rights in their workplace, such as reviewing their policies, providing training to staff and developing preventive tools.

We have also established an Employer Advisory Council to provide us with valuable input and guidance in developing a common vision for the future.

We are streamlining our audit processes under the *Employment Equity Act*, so that our audits are done more efficiently, and that we are playing a more effective role in increasing representation of designated groups in the workplace.

Outreach

In terms of outreach, with the anticipated expansion of our mandate to First Nations people living on reserves, and to fulfill our commitment to work with First Nations more broadly, we created a National Aboriginal Program that will lead the way in creating greater collaboration with First Nations people in promoting and protecting their human rights.

Now that our domestic house is functioning more smoothly, we will focus much more energy and attention externally, with our Canadian stakeholders, and also internationally with other National Human Rights Institutions, to share our knowledge and experience, to learn from others, and to contribute, along with our partners, to the growth and understanding of human rights globally.

We are an active member of the International Coordinating Committee of National Human Rights Institutions for the Protection and Promotion of Human Rights (ICC).

In addition, the Canadian Commission chairs the ICC Sub-Committee on Accreditation which reviews accreditation applications from human rights institutions and makes recommendations to ICC members on the compliance of applicants with the Paris Principles.

In this capacity, we are leading efforts to strengthen the accreditation process, promoting a new approach focused on rigour, transparency, and independence. This strengthened process will be essential for national institutions and the ICC to play a more active and credible role in international fora, such as the UN Human Rights Council.

With the recent creation of the Council, we are entering an exciting new phase in the protection and advancement of human rights around the world.

One of the tangible outcomes of greater outreach, is our decision to seek the Chair of the ICC. As many of you are aware, the ICC Chair rotates on a regional basis every four years. It is now the turn of the Americas region to take up the challenge and build on the efforts from the previous Chair.

After consulting other countries in our region, we have decided to seek the ICC Chair at the upcoming meeting in Geneva next month.

Conclusion

Let me conclude simply by saying that, as the Canadian Human Rights Commission looks to the future, we see collaboration and partnership as central to our mandate. We welcome the opportunity to share what we have learned with others and look to learn from all of you.

I am pleased that we have this opportunity to share our experiences and to explore areas for future collaboration amongst Commonwealth National Human Rights Institutions.

The interplay of ideas and mutual cooperation between national and international institutions is essential in fighting discrimination, abuse and hatred.

Thank you.

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